

Remarks

By the present amendment, the first paragraph of the specification has been amended to correct an obvious typographical error, paragraph [0031] has been amended to point out a feature of the invention which is obvious from the drawings, and the Abstract of the Disclosure has been amended to more closely relate to the claimed invention. All of the originally submitted claims have been cancelled with the exception of dependent claims 4 and 5, and a new set of claims 20-35 have been added with claims 4 and 5 being made dependent either directly or indirectly from newly submitted claim 20. While the newly submitted independent claims 20, 28 and 33 generally correspond to prior independent claims 1, 8 and 16, the revisions, changes in terminology and other amendments to these claims were so extensive that it was deemed preferable to present them in clean form.

The cited prior art references and the Examiner's extensive use of the same in rejecting the previously submitted claims under 35 U.S.C. 103 have been carefully studied. Applicants appreciate the Examiner's rather thorough analysis of the claims and the detailed application of the prior art, and such analysis has been most helpful in formulating the language of the presently submitted claims. Most of the points raised by the Examiner have been well taken with one notable exception, which will be pointed out in greater detail hereinafter. The cited prior art will first be individually discussed with particular attention being paid to their distinctions from the claimed invention, and then the presently submitted claims will be discussed to indicate the particular elements or method steps which are not shown or rendered obvious by the cited prior art whether such art be considered singly or in combination.

The primary cited prior art reference, Sparks et al 6,167,382, discloses an interactive (user/server) system for creating a composite image on a web page under the control of the server who can then print out a high resolution image as with applicants' claimed invention. However, while the user can choose from a variety of graphical images and text, these are incorporated into the final composite image in a fixed template and neither the images or text is originated with the user. It is important to note (see col. 2, lines 12-35) that the main advantage of the Sparks et al invention is to eliminate the need to create new art work and copy every time new advertising material is needed by the user thus saving time and cost. In contrast thereto, the image creating system of the present invention uses no templates, is completely free-form in that the user is able to manipulate each piece of the image to any position within the image, and is originated by the user entirely using either his own text and images or various images of the server at his option.

The patent to Takakura et al 5,752,053, used as the secondary reference by the Examiner in the rejection of the prior claims, discloses a self-contained and predetermined program which permits a user to manipulate graphic images and text in real time to achieve a final image on a display screen. It is similar to the common Adobe graphics programs in that graphic images and text are created and manipulated by a user, but it is not an interactive program wherein each piece of the composite image is initiated at the server and downloaded to the user even if the content of such piece (such as in the lines of text) may originate with the user.

The patent publication 2003/0140325 to Blumberg et al, which has also been used as a secondary reference in the rejection of certain of the prior claims, discloses an interactive

system which permits a user to alter the text and graphics of a preexisting document while working within a style defined by preexisting templates at the server (see, for example, paragraphs [0100] to [0102] of the publication). The system of the publication therefore appears to be similar to the prior art interactive system discussed in paragraph [0004] of the present application.

That portion of the Examiner's rejection of the prior claims with which applicants specifically take exception is the suggested obviousness under 35 U.S.C. 103 of utilizing the Takakura et al self-contained program with the interactive system of Sparks et al. Presumably, the only way this could be accomplished is for the server to download the Takakura et al program to the user (if the user did not already have it on his system) and then allow the user to upload the complete composite image (graphics and text) back to the server. Such a procedure is clearly not suggested by Takakura et al nor Sparks et al. More importantly, such a procedure would be directly contrary to the teachings of Sparks et al in their patent wherein the stated advantage is to save time and money by leaving the layout and creative content of the composite image at the server. Furthermore, it is entirely unclear how an independently created composite image could be forced into the Sparks et al template layout, and as stated above, such a procedure would be directly contrary to what Sparks et al are trying to accomplish.

It is believed that the presently submitted claims clearly distinguish over the cited prior art even when such art is considered in combination. Thus, independent claim 20 requires "means for permitting the user -----to individually vary the sizes and relative positions of the lines of text, graphical images and shape". As noted by the Examiner (page 4 of Office Action), Sparks et al does not teach this. While the manipulation of

graphical images and text is well-known in self-contained programs (such as that of Takakura et al) for the reasons pointed out hereinbefore it is not seen how this fact provides any suggestion in Takakura et al or Sparks et al that creative manipulation of images and text could be incorporated into the interactive arrangement of Sparks et al. Furthermore, as also pointed out hereinbefore, even if such a modification were possible (considering the fixed template setup of Sparks et al), it would be directly contrary to the teachings of Sparks et al. It is further pointed that claim 20 requires that means are included for permitting the user to produce each line of text and graphical image in any selected position in the predetermined area of the display screen; this is directly contrary to the teachings of Sparks et al who rely on templates to define the separation of text and graphical images. Finally, while the “shells” of Sparks et al may constitute “shapes” as previously more broadly defined, claim 20, as now written, requires that a selected shape be capable of being varied in its relative position within the predetermined area of the display screen (i.e., the “canvas”) by a position indicating device; clearly, the shells of Sparks et al are not capable of such manipulation by the user. For the foregoing reasons, claim 20 is believed to patentably distinguish over the cited prior art.

Dependent claim 21 further distinguishes over the cited prior art by stating that the means for downloading the files from the server causes the framing representation of each file (e.g., framing rectangle 86a of Fig. 8 for the shape, framing rectangle 98 of Fig. 9 for each line of text, and framing rectangle 122b of Fig. 18 for the image) to be initially located in a particular orientation and at a specific position so that the subsequent manipulations by the user will be recorded for transmittal back to the server. This is a particularly useful feature in interactive systems such as that claimed in the present

application since it provides a ready means of clearly identifying the location of each component part of the composite image. Such a feature would have no particular use in an interactive system such as that of Sparks et al since the locations of the component parts of the composite image are defined by the templates of the server, and Sparks et al clearly do not suggest the incorporation of such a feature. For the foregoing reason, claim 21 is also believed to patentably distinguish over the cited prior art.

Claims 4, 5 and 22 – 27, which depend from claims 20 or 21, either directly or indirectly, define further features of the present invention and are believed to patentably distinguish over the cited prior art for the reasons pointed out hereinbefore with respect to claims 20 and 21.

Independent claim 28 like claim 20 specifies “means for permitting the user---to incorporate said lines of text and selected graphical images into any selected position in said predetermined area on the display screen” and is believed to patentably distinguish over the cited prior art for the reasons set forth hereinbefore with respect to claim 20. Claim 28 also specifies that the composite image is transmitted to the server “in its selected composite parts and their respective locations within the predetermined area of the display screen”; thus, each individual line of text and each separate graphical image is defined and its location established within the “canvas” so that it can later be assembled within the composite image (at a higher resolution perhaps) for output “suitable for high quality printing”. It will be noted that this is not fairly taught by those interactive systems such as that of Sparks et al which utilize the template approach since the templates define the location of the text/graphical images in the composite image. Furthermore, the manipulation of each individual line of text (as opposed to blocks of

text as utilized in the Sparks et al arrangement) provides a true free-form creativity in an interactive system not taught by any of the cited prior art since, obviously, a “line of text” may consist of a single letter, a plurality of letters, a word, or a series of words. For the foregoing reasons, claim 28 is believed to patentably distinguish over the cited prior art.

Claim 29 adds the same limitation to claim 28 that claim 21 added to claim 20 and is thus believed to patentably distinguish the claim for the reasons given hereinbefore with respect to claim 21. Claims 30 –32 further define the features of the invention as set forth in claims 28 or 29 and are believed to be patentable over the cited prior art for the reasons discussed hereinbefore.

Claim 33 defines an interactive method for creating a composite image in a predetermined area of the display screen and includes the recitation that each selected image and each line of text can be moved to any position in said predetermined area. For the reasons pointed out hereinbefore, this step is not fairly taught by any of the cited prior art references. Since the claim specifically requires an interactive system with user and server cooperating to produce the final composite image, it is not believed that the Takakura et al patent or other prior art systems which utilize a predetermined, self-contained program under the control of the user are suggestive of the claimed invention for the reasons given hereinbefore. Claim 33 also requires that the composite image be transmitted back to the server “with all changes in size and repositioning of each of the downloaded lines of text and graphical images being correlated to a specific initial location within the predetermined area”, and, for the reasons set forth hereinbefore with respect to claim 28, this feature is believed to further distinguish the claim over the cited prior art. For the foregoing reasons, claim 33 is believed to be patentable.

Claims 34 and 35, which are dependent from claim 33 either directly or indirectly, are believed to be patentable for the reasons given hereinbefore.

With respect to the Examiner's rejection under 35 U.S.C. 112, it is noted that the term "about" in former claims 9 and 10 has been removed from current claim 31 (the only submitted claim which includes the specific subject matter of former claims 9 and 10).

The publication to Fitzsimons et al, 2003/0034991, which has been cited but not applied to the claims, has been reviewed. It is not believed that there is any disclosure therein which would anticipate or render obvious the invention set forth in the presently submitted claims whether such publication be considered singly or in combination with the other cited prior art.

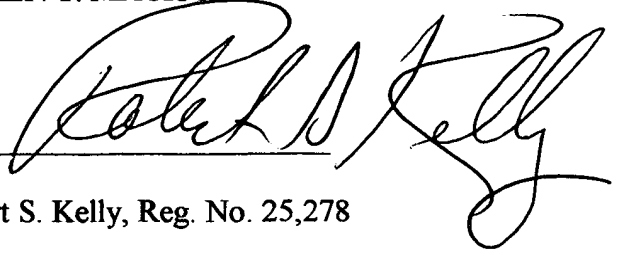
It will also be noted that while some new terminology has been used in the newly submitted claims as compared to the prior submitted claims, all of such terminology is believed to find clear support in the specification as originally written or as amended by the present amendment. If there are any questions in this regard, the Examiner is urged to call the undersigned attorney to provide further elucidation.

In view of the foregoing, it is believed that each of presently submitted claims 4, 5 and 20 – 35 is patentable and in condition for allowance and that the application is thus in condition to be passed to allowance. Favorable reconsideration of the application is thus respectfully requested. Should the Examiner feel that the present amendment does not overcome the rejection of the claims under 35 U.S.C. 103 or has other objections to the claims as presently presented, it is requested that the Examiner contact the undersigned at the telephone number listed below or fax him at fax no. 408-872-0787.

Respectfully submitted,

STEPHEN T. MACK et al

By: _____

A handwritten signature in black ink, appearing to read "Robert S. Kelly", written over a horizontal line.

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Their Attorney